154 Filed Nov 27 1950

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Criminal No. 1744-50

Charge Vio. 2-192 U.S.C.

UNITED STATES
v.
THOMAS QUINN, *Defendant*

Plea of Defendant

On this 24th day of November, 1950, the defendant Thomas Quinn, appearing in proper person and by his attorney Alan Rosenberg, being arraigned in open Court upon the indictment, the substance of the charge being stated to him, pleads not guilty thereto.

By direction of

BURNITA S. MATTHEWS
Presiding Judge
Criminal Court #1

HARRY M. HULL, *Clerk*
By C. H. MILSTEAD
Deputy Clerk

Present:

UNITED STATES ATTORNEY
By CHARLES B. MUERAY
Assistant United States Attorney

H. B. SMITH
Official Reporter

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Motion to Dismiss Indictment and for Other Appropriate Relief

The defendant above named moves, pursuant to Rule 12 of the Federal Rules of Criminal Procedure, on the indict-

ment herein, on the affidavit of Thomas Quinn, verified December 18, 1950, the affidavits of David Scribner, Esq., and the affidavit of Albert J. Fitzgerald, all verified December 16, 1950, that the indictment be dismissed, or that appropriate relief be granted, upon the following grounds:

1. Section 192 of Title 2 of the United States Code is unconstitutional on its face and as construed and applied herein in that it violates the Constitutional privilege against self-incrimination contained in the Fifth Amendment to the Constitution of the United States.

2. Section 192 of Title 2 of the United States Code is unconstitutional on its face and as construed and applied herein in that it exceeds the bounds of the constitutional power of the Congress to investigate in aid of its legislative jurisdiction.

3. Section 192 of Title 2 of the United States Code is unconstitutional on its face and as construed and applied herein in that it is vague and indefinite, and fails to provide an ascertainable standard for conduct in violation of the Fifth and Sixth Amendments to the Constitution of the United States.

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4. Section 192 of Title 2 of the United States Code is unconstitutional on its face and as construed and applied herein in that it violates the First Amendment to the Constitution of the United States.

5. Section 121, Legislative Reorganization Act of 1946, Subsection (Q)(2) and House Resolution 5 of the 81st Congress creating the House Committee on Un-American Activities are unconstitutional on their face and as applied and construed herein:

(a) in that they violate the constitutional privilege against self-incrimination contained in the Fifth Amendment to the Constitution of the United States.

(b) in that they are vague and indefinite and fail to provide an ascertainable standard for conduct in violation of the Fifth and Sixth Amendments to the Constitution of the United States.

(c) in that they violate the First, Ninth and Tenth Amendments to the Constitution of the United States.

(d) in that they constitute a Bill of Attainder.

6. The indictment fails to charge an offense under the laws of the United States.

7. The indictment fails to charge an offense under the laws of the United States in that the questions asked exceeded the bounds of legislative inquiry and were not pertinent to any question properly under inquiry before the Committee.

8. The indictment fails to state an offense under the laws of the United States in that it fails to allege that the defendant was directed by the Subcommittee to answer the questions set forth in the indictment.

9. The indictment violates the Fifth Amendment to the United States Constitution and Rule 7 of the Federal Rules of Criminal Procedure in that it fails to provide the defendant with adequate notice of the offense with which he is charged.

157 10. The indictment is void and illegal in that there are less than 12 members of the Grand Jury which voted the indictment who were impartial and free from prejudice or bias against the defendant, and therefore as to this defendant the alleged Grand Jury was illegally constituted. The indictment should be dismissed or in the alternative the defendant should be granted a hearing at which he can offer proof that bias or prejudice existed on the part of more than 11 of the Grand Jurors.

11. The indictment is improperly and illegally drawn and is prejudicial to the defendant in violation of the Federal Rules of Criminal Procedure in that the alleged acts set forth in the several counts of the indictment were questions directed all to one subject of inquiry and were simultaneous and continuous acts constituting only one alleged offense which could only be charged in a single count.

12. The indictment as drawn places the defendant in double jeopardy for a single offense in violation of the Fifth Amendment to the United States Constitution.

And in the alternative, the defendant moves the Court for an order directing the United States Attorney for the District of Columbia to serve and file a Bill of Particulars setting forth in detail the answers to the following:

1. By what authority and in what manner was the "Subcommittee" on Un-American Activities of the House of Representatives appointed or designated?

2. What was the specific question then under inquiry before the "Subcommittee"?

158 3. What facts did each question which is set forth in each count of the indictment seek to elicit in respect to the question then under inquiry before the "Subcommittee"?

4. State all the questions asked and answers made by the defendant at his appearance before the "Subcommittee" at the hearing on August 11, 1949.

DAVID SCRIBNER
Office & Post Office Address
11 East 51st Street
New York 22, New York

ALLAN R. ROSENBERG
Office & Post Office Address
1741 K Street, N.W.
Washington, D. C.

Attorneys for Defendant

Dated: December 16, 1950

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160 Filed Dec. 19, 1950

Affidavit of Albert J. Fitzgerald

STATE OF NEW YORK
COUNTY OF NEW YORK, *ss:*

ALBERT J. FITZGERALD, being duly sworn, deposes and says:

I am the General President of the United Electrical, Radio and Machine Workers of America (UE), hereafter